

CITY OF MILPITAS
Summary of Contents
Milpitas City Council Meeting
June 1, 2004
6:00 p.m. Closed Session
7:00 p.m. Public Business
455 E. Calaveras Boulevard

I. ROLL CALL (6:00 p.m.)

II. ADJOURN TO CLOSED SESSION

1. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

(Pursuant to Government Code Section 54956.8)

Property: APN #022-08-042

Negotiating Parties: City of Milpitas and County of Santa Clara

Agency Negotiator: Thomas J. Wilson

Under Negotiation: Terms and Conditions for Disposition or Lease

2. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

(Pursuant to Government Code Section 54956.8)

Property: Vacant Property N. Main Street (APN No. 2208003)

Negotiating Parties: City of Milpitas/Milpitas Redevelopment Agency and Kathleen Cardoza

Agency Negotiators: Thomas J. Wilson and Blair King

Under Negotiation: Terms and conditions for acquisition of property

3. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

(Pursuant to Government Code Section 54956.8)

Property: 163 North Main Street, APN #022-08-041

Negotiating Parties: Mid-Peninsula Housing Coalition, a California

Non-Profit Public Benefit Corporation, City of Milpitas, and Milpitas Redevelopment Agency

Agency Negotiators: Thomas J. Wilson and Blair King

Under Negotiation: Terms and conditions for disposition or lease

4. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

(Pursuant to Government Code Section 54956.8)

Property: 120-150 Winsor Street and 116-130 N. Main Street

Negotiating Parties: Milpitas Redevelopment Agency and Dorothy A. & Ruth A. Winsor

Agency Negotiators: Thomas J. Wilson and Blair King

Under Negotiation: Terms and conditions for acquisition of property

5. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

(Pursuant to Government Code Section 54957)

Titles: City Attorney and City Manager

III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote on abstention of each member present

IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)

V. APPROVAL OF MINUTES: May 18, 2004

VI. SCHEDULE OF MEETINGS

VII. PRESENTATIONS

Proclamation:

- Affordable Housing Week, June 5-12, 2004

Commendations:

- Renaissance Students:

Erinn Kim	Nick Hawley	Ryan Robinson
Kevin Lai	Sang Nguyen	Rachel Purification
Brittany Kessinger	Billy Boulett	Lina Woldeyes
Amrit Dosanjh	Veronica Yee	Carlos Correa
Anne Villaruz		
- Whitney D. Cole, Charles Murray Community Leadership Scholarship
- Jasmyne Jamerson, Girls for a Change Leadership Scholarship Travel Award
- Eric Jackson, Smart Lifestyle Student Scholarship

Certificates of Appreciation:

- Food Donor Certificates for the April Joint City/School District Evacuation and Mass Feeding Exercise at Rose Elementary School

Burger King, 175 W. Calaveras Blvd.	LSI Logic, 1621 Barber Lane
Burger King, 1475 Dempsey Rd.	Lyon's, 765 E. Calaveras Blvd.
Marie Calenders, 333 S. Abbott Ave.	McDonald's, 1249 Great Mall Dr.
Carl's Jr., 129 W. Calaveras Blvd.	McDonald's, 99 N. Milpitas Blvd.
Chili's, 300 W. Calaveras Blvd.	McDonald's 1854 N. Milpitas Blvd.
Domino's Pizza, 55 Dempsey Rd.	Nob Hill Foods, 401 Jacklin Rd.
Eric's Deli, Milpitas Town Center	Omega Restaurant, 90 S. Park Victoria Dr.
Flames, 1192 E. Calaveras Blvd.	Ravioli's, 57 N. Milpitas Blvd.
Georgio's, 643 E. Calaveras Blvd.	Taco Bell, 774 S. Main St.
Hot Dog On A Stick, 610 Great Mall Dr.	Taco Bell, 1365 S. Park Victoria Dr.
Hungry Hunter, 1181 E. Calaveras Blvd.	Taco Bell, 81 Ranch Dr.
In-N-Out Burger, 50 Ranch Dr.	Town Center Pizza, 85 N. Milpitas Blvd.
Kentucky Fried Chicken, 73 S. Main St.	Wal-Mart, 301 Ranch Rd.
Koongs, 103 N. Milpitas Blvd.	Wienerschnitzel, 1333 S. Park Victoria Dr.
- Ethics Code Participants
The City Council recognizes the contributions of over 100 Milpitas residents, elected and appointed officials, and city staff who helped develop an ethics code to guide officials and candidates for public office on ethical issues. These volunteers participated in one to four workshops led by the Community Advisory Commission during March, April and May. Many hours were spent discussing ethics, ethical behavior, and identifying six core values, which formed the basis for the Ethics Code and Guidelines. Their efforts will help Milpitas officials be their best!

VIII. CITIZENS FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to under two minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

IX. ANNOUNCEMENTS

X. APPROVAL OF AGENDA

XI. CONSENT CALENDAR (Items with Asterisks)

XII. PUBLIC HEARINGS (NONE)

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. CALL TO ORDER BY THE MAYOR

RA2. ROLL CALL

RA3. APPROVAL OF MINUTES: May 18, 2004

RA4. APPROVAL OF AGENDA AND CONSENT CALENDAR (ITEMS WITH ASTERISKS)

RA5. Adopt Resolutions Approving the 2004-2005 Operating Budget, 2004-2005 Redevelopment Agency Budget, 2004-2005 Capital Improvement Budget, and the Five-Year Capital Improvement Program (Staff Contact: Emma Karlen, 586-3145)

***RA6. Approve Purchase Order; Civic Center Project No. 8026 (Staff Contact: Greg Armendariz, 586-3401)**

***RA7. Approve Authorization to Enter into Negotiations with USA Properties Fund, Inc., for Affordable Housing Unit Assistance (Staff Contact: Felix Reliford, 586-3071)**

***RA8. Approve Agreement Amendment: Harris & Associates, Milpitas Library Project, Winsor and Weller Avenue Plan Line, Right of Way Vacation, and Street Improvements, Project No. 8153 (Staff Contact: Steve Erickson, 586-3414)**

RA9. AGENCY ADJOURNMENT

XIV. REPORTS OF OFFICERS AND BOARDS

City Council

- 1. Request for Donation: Child Spree Program Sponsored by Milpitas Kiwanis and Mervyn's: Mayor Esteves**
- * 2. Approve the Mayor's Appointment to the Mobile Home Park Rental Review Board: Mayor Esteves**
- 3. Review of July 4th Sports Center Programs and Fees: Councilmember Polanski (Staff Contacts: Bonnie Greiner, 586-3227 and Kathleen Yurchak, 586-3209)**

Community Advisory Commission

- 4. Consider Additional Information from the Community Advisory Commission Regarding Recommendation to Increase the Mayor's Term Length from Two to Four Years (Staff Contact: Tambri Heyden, 586-3280)**

XV. UNFINISHED BUSINESS (NONE)

XVI. NEW BUSINESS

- 5. Adopt Resolution Approving the City of Milpitas Code of Ethics and Behavioral Standards Document; Adopt Resolution Revising and Renaming Standard Operating Procedure No. 16-1 (formerly known as the Code of Ethics); Review and Approve the Implementation Plan for the City of Milpitas Code of Ethics; and Set Dates for a City Council Special Meeting for Ethics Code Training and a Campaign Candidates Training Workshop (Staff Contact: Tambri Heyden, 586-3280)**

- 6. **Consideration of Proposed Standard Operating Procedure/ Protocol Setting Forth Procedures and Policies for Making City Records Available to the Public and Providing Notice and Access to Public Meetings (Staff Contact: Steve Mattas, 586-3040)**
- 7. **Consideration of Development of a City Council Handbook including the Topics that the City Council May Desire to Include in the Handbook (Staff Contact: Steve Mattas, 586-3040)**
- * 8. **Deny Fee Waiver Request for the Punjabi Sahit Sabha Literary Function on August 8, 2004, in the Amount of \$494 (Staff Contact: Kathleen Yurchak, 586-3209)**
- * 9. **Request Authorization to Fly Tree City USA Flag at the Public Works Building (Staff Contact: Carol Randisi, 586-2601)**

XVII. ORDINANCES (NONE)

XVIII. RESOLUTIONS

- * 10. **Adopt a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for Main Sewage Pump Station Site Improvements, Project No. 6079, (Staff Contact: Mark Rogge, 586-3403)**
- * 11. **Adopt Resolution Relating to Statements of Qualifications of Candidates in Municipal Elections (Staff Contact: Gail Blalock, 586-3001)**
- * 12. **Adopt a Resolution to Release Unclaimed Checks in Accordance with SOP No. 26-1 (Staff Contact: Dante D. Ong, 586-3132)**
- * 13. **Adopt Resolution of Intention to Levy Assessments for Fiscal Year 2004-2005, Preliminarily Approving the Annual Engineer's Report and Providing for Notice of Public Hearing: Landscaping and Lighting Maintenance District No. 95-1, McCarthy Ranch, Program No. 9474, (Staff Contact: Mehdi Khaila, 586-3328)**
- * 14. **Adopt Resolution of Intention to Levy Assessments for Fiscal Year 2004-2005, Preliminarily Approving the Annual Engineer's Report and Providing for Notice of Public Hearing: Landscaping and Lighting Maintenance District No. 98-1, Sinclair Horizon, Program No. 9489, (Staff Contact: Mehdi Khaila, 586-3328).**

XIX. BIDS AND CONTRACTS

- * 15. **Approve and Authorize Recreation Services to Enter into a Contract with the Milpitas Unified School District for Transportation Services for Summer 2004 (Staff Contact: Dale Flunoy, 586-3228)**
- * 16. **Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals: 2004 Street Resurfacing, Project No. 4182 (Staff Contact: Steve Erickson, 586-3414)**
- * 17. **Request Council Authorization: Renewal of Urban Search and Rescue (USAR) Program Participation Agency Agreement (Staff Contact: Bill Weisgerber, 586-2811)**
- * 18. **Approve Contract with Mary Krost & Associates to Provide Safety Training for City Employees (Staff Contact: Cherie Rosenquist, 586-3082)**
- * 19. **Approve Senior Nutrition Amended Contract with County of Santa Clara (Social Services) (Staff Contact: Kathleen Yurchak, 586-3209)**

- * 20. **Authorize City Manager to Execute Contract: Wildlife Center of Silicon Valley Animal Control Services for the City of Milpitas (Staff Contact: Felix Reliford, 586-3071)**
- * 21. **Authorize the City Engineer to Execute a Contract Change Order: Piedmont Road Bike Lane and Sidewalk Improvements at St. John's Cemetery (Project No. 4214) (Staff Contact: Steve Erickson, 586-3414)**
- * 22. **Approve Agreement Amendment: 4 LEAF Inc., Silicon Valley Intelligent Transportation System (ITS) Project No. 4219 (Staff Contact Mike McNeely, 586-3301)**
- * 23. **Authorize City Manager to Execute Agreement Amendment: Overland Pacific & Cutler, Main Sewage Pump Station Improvements, Project No. 6079 (Staff Contact Greg Armendariz, 586-3401)**
- * 24. **Approve Budget Appropriation and Authorize the City Manager to Execute Amendment to Agreement: Hilton Farnkopf & Hobson LLC Solid Waste Contract Extension and Rate Negotiations (Staff Contact: Darryl Wong, 586-3345)**

XX. CLAIMS AND DEMANDS

- * 25. **Approve Payment Requests: Miscellaneous Vendors / Contractors (Staff Contact: Lou Zenzen, 586-3161)**

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JUNE 15, AT 7:00 P.M.**

CITY OF MILPITAS
Agenda Reports
Milpitas City Council Meeting
June 1, 2004
6:00 p.m. Closed Session
7:00 p.m. Public Business
455 E. Calaveras Boulevard

XII. PUBLIC HEARINGS (NONE)

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. CALL TO ORDER BY THE MAYOR

RA2. ROLL CALL

RA3. APPROVAL OF MINUTES: May 18, 2004

RA4. APPROVAL OF AGENDA AND CONSENT CALENDAR (ITEMS WITH ASTERISKS)

RA5. ADOPT RESOLUTIONS APPROVING THE 2004-2005 OPERATING BUDGET, 2004-2005 REDEVELOPMENT AGENCY BUDGET, 2004-2005 CAPITAL IMPROVEMENT BUDGET, AND THE FIVE-YEAR CAPITAL IMPROVEMENT PROGRAM (STAFF CONTACT: EMMA KARLEN, 586-3145)

BACKGROUND: During the May 11, 2004, Budget Public Hearing, the City Council conceptually approved the City/Agency Proposed FY 2004-05 Annual Budget, the FY 2004-05 Capital Improvement Program (CIP) Budget and the Five-Year Capital Improvement Program (2004-2009). Based on actions conceptually approved by the Council, the resolutions, included in the Council's agenda packets, are submitted for the Council's approval of the Final 2004-05 Annual Budget totaling \$125,538,449.

The Final Operating Budget, CIP Budget and Five Year Capital Improvement Program will incorporate changes identified in the modification memo included in this packet. The published Final Budget Documents will be distributed to the City Council prior to the September 7, 2004, Council meeting.

RECOMMENDATION: Adopt and approve the following:

1. A Resolution adopting the FY 2004-05 Appropriations Limit of \$50,620,037 for the City of Milpitas.
2. A Joint Resolution of the City and Redevelopment Agency approving the City's Final FY 2004-05 Budget of \$125,538,449.
3. A Joint Resolution of the Milpitas Redevelopment Agency and the City of Milpitas making findings following a Public Hearing for use of Redevelopment funds.
4. A Resolution of the Milpitas Redevelopment Agency authorizing payments to the City of Milpitas pursuant to the Second Amended and Restated Public Works Agreement.
5. A Resolution of the Milpitas Redevelopment Agency determining that the planning and administration expenses to be funded in FY 2004-05 by the Housing Reserve Fund are necessary for the production, improvement and/or preservation of affordable housing for the low and moderate-income households.
6. The FY 2004-05 Capital Improvement Budget of \$14,323,712.
7. The Five-Year Capital Improvement Program for the Fiscal Years 2004-05 through 2008-09 of \$61,792,766.

***RA6. APPROVE PURCHASE ORDER; CIVIC CENTER PROJECT NO. 8026 (STAFF CONTACT: GREG ARMENDARIZ, 586-3401)**

BACKGROUND: The City Hall front water fountain and rear waterfall ponds require chlorination water treatment. Currently this treatment is performed manually by maintenance staff with the use of chlorine tablets similar to swimming pool water treatment. Installation of an automatic chlorination generation and feeding system would provide labor savings and a substantial cost savings on materials. An automatic chlorine generation system manufactures chlorine by chemically breaking down ordinary salt. Salt is substantially less expensive than the chlorine tablets currently used. The system would generate and dispense chlorine on demand thereby eliminating the need to store chlorine, which is a hazardous material. The labor time-savings will allow maintenance staff to focus on other elements of the Civic Center and other city facilities.

Staff recommends a sole source purchase of the automatic chlorination system, because there is only a single supplier known in the area for the required system suitable for the fountain and waterfall pond. Staff recommends the purchase of the automatic chlorination system from Severn Trent Services for \$33,612. Sufficient funds are available in the City Hall project. After approval of this purchase order, the remaining project contingency is \$64,365.

RECOMMENDATION: Approve purchase order for Automatic Chlorine Generator and Feeding System with Severn Trent Services for \$33,612.

***RA7. APPROVE AUTHORIZATION TO ENTER INTO NEGOTIATIONS WITH USA PROPERTIES FUND, INC., FOR AFFORDABLE HOUSING UNIT ASSISTANCE (STAFF CONTACT: FELIX RELIFORD, 586-3071)**

BACKGROUND: USA Properties Fund, Inc., based in Roseville, California, is proposing to develop two separate, but adjacent residential projects: 120 units of senior housing and 84 market rate units. The project will be located in the South Main Street area, north of Montague Expressway. Staff has met with the developer about making all 120 units of the senior housing project affordable with financial assistance from the Agency. The final details of the agreement will be presented to the City Council for approval at a later date.

It is recommended that the Agency authorize staff to enter into negotiations with USA Properties Fund for the purpose of providing financial assistance from the Agency's 20% affordable housing set-aside funds. The Agency's authorization to enter into negotiations should not be considered implied approval of any of the forms of assistance requested by the developer. Any agreement negotiated is subject to Agency/Council review and approval.

RECOMMENDATION: Approve authorization to enter into negotiations with USA Properties Fund, Inc., to provide Agency finance assistance from its 20% affordable housing set-aside funds.

***RA8. APPROVE AGREEMENT AMENDMENT: HARRIS & ASSOCIATES, MILPITAS LIBRARY PROJECT, WINSOR AND WELLER AVENUE PLAN LINE, RIGHT OF WAY VACATION, AND STREET IMPROVEMENTS, PROJECT NO. 8153 (STAFF CONTACT: STEVE ERICKSON, 586-3414)**

BACKGROUND: On October 7, 2003, City Council awarded a consultant contract to Harris and Associates for mapping, survey, and utility engineering services as part of the library pre-design effort for Winsor, Weller, and Main Street. Harris is also currently working on the off-site utility engineering and the official street Plan Lines for Winsor and Weller Avenue.

Staff now proposes to amend Harris's agreement to include preparation of a drainage study for the library, garage parking structure and the vacant City owned parcels on the west side of Main Street, preparation of an official Plan Line for the portion of Carlo Street between Winsor and Main Street, and utility engineering services for the design of the relocation of existing City utilities in Main Street from Weller Avenue to Carlo Street. Staff has negotiated the scope of work and the fee for these professional services. The work is proposed on a time and materials

basis with a not-to-exceed amount of \$43,000. Funds are available in the project budget for this amendment.

RECOMMENDATION: Authorize the City Manager to execute the agreement amendment with Harris and Associates in the amount not to exceed \$43,000 subject to approval as to form by the City Attorney.

RA9. AGENCY ADJOURNMENT

XIV. REPORTS OF OFFICERS AND BOARDS

City Council

1. REQUEST FOR DONATION: CHILD SPREE PROGRAM SPONSORED BY MILPITAS KIWANIS AND MERVYN'S: MAYOR ESTEVES

BACKGROUND: Prior to the beginning of school each fall, the Child Spree Program, sponsored by the Kiwanis Club of Milpitas and Mervyn's, provides the opportunity for underprivileged children to purchase school clothes and supplies. Mike Mendizabal, President the Milpitas Kiwanis Club, has sent a letter requesting a City donation of \$1,500 to the Child Spree Program. Copy of request is included in Council's agenda packet. For the past several years the City has contributed to this event in varying amounts -- \$500, \$1,000, or \$1,500.

Sufficient funds are appropriated in the Council's Community Promotions Budget for FY04/05, and currently no other requests have been received.

RECOMMENDATION: Consider donation to the Child Spree Program from City Council's Community Promotions Fund

*** 2. APPROVE THE MAYOR'S APPOINTMENT TO THE MOBILE HOME PARK RENTAL REVIEW BOARD: MAYOR ESTEVES**

BACKGROUND: Mayor Esteves is recommending the appointment of Sandeep Chahal to an existing vacancy on the Mobile Home Park Rental Review Board for a term expiring June 2006. Included In the Council's agenda packets are copies of current applications for this board.

RECOMMENDATION: Approve the Mayor's appointment of Sandeep Chahal to the Mobile Home Park Rental Review Board for a term expiring June 2006.

3. REVIEW OF JULY 4TH SPORTS CENTER PROGRAMS AND FEES: COUNCILMEMBER POLANSKI (STAFF CONTACTS: BONNIE GREINER, 586-3227 AND KATHLEEN YURCHAK, 586-3209)

In response to Councilmember Polanski's request, this item has been placed on the agenda to review the admission fees for the July 4th Pool Party and Fireworks Show at the Sports Center.

Pool Party

The "Waving the Red, White and Blue" Pool Party will be held on Sunday, July 4th from 1-5pm at the Milpitas Sports Center. Admission for the party has been \$2.00 and is consistent with normal summer Recreation Swim fees. Last year, 618 people attended the ever popular pool party to listen to music, play games, and swim, generating \$1,236. Staff is anticipating similar numbers this year, due to occupancy regulations set for the pools and pool deck. Staff is recommending that this year the admission fees be applied to the very successful Recreation Assistance Program (RAP) which assists families, who qualify, participation in year-round Recreation Services programs and activities. To date, this beneficial program has aided 66 households from families with children to seniors, who normally would not be able to afford participation in recreation activities and/or classes. The budget for the Pool Party is \$1,000.

Fireworks Show

This year the “Red, White and Boom” 4th of July festivities will begin at 6:00pm with two live bands – Band Camp and Flashback – and performances by the Teen Talent Show winners. During the evening, there will be “walk around” entertainment for children and their families, including face painters, jugglers, clowns, and balloon artists. Staff has also secured the following food vendors to participate and sell food from 6-9pm: Subway Sandwiches, the Kiwanis Club, the Lions Club, Chili’s Restaurant, Baskin Robbins, Big Boyz BBQ, Café Romeo, and possibly the Rotary Club. All vendors will retain their food sale profits. This year’s Fireworks Show will begin at 9:30pm with the dual themes of: “A Tribute to Heroes” and “Celebrating 50 Years of Milpitas”. The display has been increased from last year’s 18-minute show to 23 minutes as custom pyrotechnics have been added to commemorate the City’s 50th Anniversary, and an additional 100 shells have been added to the finale.

Last year, 2003, was the first year a \$2.00 admission was charged for the 4th of July Fireworks Show. The show attracted 6,779 participants – 2,368 adults and 4,411 youth under the age of 12 – generating \$4,736. The admission fee which was charged to individuals 12 years old and above was a useful mechanism to accurately track the number of firework attendees and – in a small way – to help offset the costs of the event. Event expenses last year were \$20,000.

Staff received very few negative comments regarding the admission fee and if patrons chose not to pay, they had the opportunity to view the Fireworks display from Cardoza Park or the Sports Center parking lot. Many participants even commented that they enjoyed the show, stating it was the best fireworks they have seen and would pay more for a show of this quality.

Staff is anticipating crowds similar to those of last year, with 5,000-7,000 spectators. It is further anticipated that a \$2 admission fee, which – this year – is recommended for attendees 16 years old and above, would generate approximately \$4,200, which would also be applied to the Recreation Assistance Program (RAP). The total cost of this year’s July 4th event is \$28,146.

RECOMMENDATION: Receive staff report and direct staff to continue the \$2.00 admissions fees for the July 4th events with proceeds going to support and benefit the Recreation Assistance Program in the Recreation Services budget for FY2004/05.

Community Advisory Commission

4. CONSIDER ADDITIONAL INFORMATION FROM THE COMMUNITY ADVISORY COMMISSION REGARDING RECOMMENDATION TO INCREASE THE MAYOR’S TERM LENGTH FROM TWO TO FOUR YEARS (STAFF CONTACT: TAMBRI HEYDEN, 586-3280)

BACKGROUND: At the December 2, 2003, City Council meeting, the Community Advisory Commission (CAC) presented its recommendation to increase the Mayor’s term length from two to four years. After Council discussion of the recommendation, the Council requested the CAC to re-evaluate their recommendation after studying the correlation with existing term limits. In addition, the Council requested the CAC obtain more public input on the proposed change in term length and return to the Council with suggested ballot language that would make the relationship between term length and term limits clear to voters.

After conducting a survey of 92 individuals and holding a CAC public hearing on April 7, 2004, the CAC continues to recommend an increase in the Mayor’s term length from two to four years. The ballot language the CAC has drafted is as follows:

1. Beginning in 2008, shall the Mayor’s term length be extended from two years to four years, the same as other members of the City Council?

and

2. If you voted Yes for Question #1, beginning in 2008, shall the Mayor be limited to two consecutive, 4-year elective terms?

The City Attorney has reviewed the draft ballot language, and suggests the following minor rewording of the first question to comply with Government Code requirements related to extending the term of office for a directly-elected Mayor. In the event the City Council decides to include both CAC recommendations on the November ballot, the exact wording of question 2 may also require some minor adjustment to correctly modify the existing Municipal Code provisions related to term limits, but the substance of the recommendation would remain the same.

With regards to the first question, the revised question would read:

“Beginning with the start of the Mayor’s term of office in 2008, shall the term of office of Mayor be increased from two to four years, the same term of office as other members of the City Council?”

As an alternative, the City Council may also desire to have the ballot question read:

“Beginning with the start of the Mayor’s term of office in 2008, shall the term of office of Mayor be increased from two to four years?”

Under either alternative, the concept that the four-year term is the same as other councilmembers could be expressed in the ballot title and summary and the impartial analysis for the ballot measure.

The CAC will be providing a presentation of their additional work at the Council meeting. The CAC’s PowerPoint slides, updated report, survey and survey results, as well as an editorial from the *Milpitas Post* that ran three months ago are included in the Council’s agenda materials. If the City Council decides to place these measures on the November 2004 ballot, staff will prepare the final materials necessary and present these to the City Council for action at the same meeting the City Council takes action to call for a consolidated election. These final materials include the resolution placing the measure on the ballot and specifying the exact ballot question, the ballot title and summary and the impartial analysis. These materials would be presented to the City Council at the second meeting in June or the July meeting.

RECOMMENDATION: Consider the CAC’s recommendation and provide direction to staff regarding whether to move forward with including these ballot measures on the November election ballot.

XV. UNFINISHED BUSINESS (NONE)

XVI. NEW BUSINESS

5. **ADOPT RESOLUTION APPROVING THE CITY OF MILPITAS CODE OF ETHICS AND BEHAVIORAL STANDARDS DOCUMENT; ADOPT RESOLUTION REVISING AND RENAMING STANDARD OPERATING PROCEDURE NO. 16-1 (FORMERLY KNOWN AS THE CODE OF ETHICS); REVIEW AND APPROVE THE IMPLEMENTATION PLAN FOR THE CITY OF MILPITAS CODE OF ETHICS; AND SET DATES FOR A CITY COUNCIL SPECIAL MEETING FOR ETHICS CODE TRAINING AND A CAMPAIGN CANDIDATES TRAINING WORKSHOP (STAFF CONTACT: TAMBRI HEYDEN, 586-3280)**

BACKGROUND: After input from the public, city boards and commissions, city management and senior staff at four code preparation workshops, review by the Ethics Project Steering Committee and the CAC, final drafts of the *City of Milpitas Code of Ethics* and Behavioral

Standards document are being forwarded to the Council for consideration to adopt. The Code and Standards are intended to apply to all elected and appointed officials, campaign candidates, city management, and senior staff. The Code encompasses six core values with corresponding fundamental practices that describe each value.

The Standards build on the Code by setting forth specific examples of everyday actions and decisions with are consistent with the Code and examples of behaviors that are not. Examples for city officials, as well as those for candidates are provided. A resolution for adoption that attaches the Code and Standards are included in the Council's agenda materials.

A second resolution is included in the Council's agenda materials to adopt revisions to the existing Standard Operating Procedure (SOP) No. 16-1, formerly called the "Ethics Code", that was last revised by Council on March 17, 1976 through Resolution No. 2714. This SOP is being renamed the "Code of Conduct for Public Officials" and applies to all elected and appointed officials and city employees – campaign candidates are excluded. In the new City of Milpitas Code of Ethics, all elected and appointed officials and campaign candidates are included, but non-senior staff level employees are excluded.

As per the ethics project contract, the *Implementation Plan for the City of Milpitas Code of Ethics* has been prepared and approved by the Steering Committee and CAC for consideration of approval by the Council together with the Code and Behavioral Standards. The purpose of the attached implementation plan is to identify educational methods and outline how to monitor the effectiveness of the *City of Milpitas Code of Ethics* and program. The plan recommends the following implementation measures:

1. When possible, conducting moments of reflection at the end of Council, Commission, and staff meetings assessing how well the Code was practiced at the meeting.
2. Publicly recognizing at the annual Board and Commission dinner those who have been extraordinary role models of the Code's values.
3. Holding a campaign candidates workshop on how to conduct a political campaign consistent with the Code.
4. Conducting a post-election assessment session in December/January to evaluate how well Code promises were kept, to be followed by CAC-sponsored assessment sessions after all future elections that would precede evaluation and updating of the Code and ethics program.
5. Seeking partners who can also hold candidates accountable.
6. Discouraging use of the County Ethics Foundation.
7. Securing an "ad watch" program sponsor, sponsor to host a debate and/or sponsor of web space for candidates to respond to opponent's claims made within the last few days of the election.
8. Producing a public information program to educate voters on how to determine whether a candidate is ethical.
9. Requiring candidate disclosure of all their lobbyists to whom they've paid \$500 or more to communicate with city officials to influence city legislation or decisions.
10. Considering programs related to campaign funding.
11. Instituting a process for complaints that would be adjudicated by a paid, team of ethics evaluators with the authority to take the appropriate action as per codified sanctions.
12. Requiring all Council members to attend a two-session ethics training series.
13. Requiring all senior management staff to attend a two-session ethics workshop series.
14. Requiring all boards and commissioners to attend a one-session ethics workshop.

RECOMMENDATION:

1. Adopt the resolution approving the City of Milpitas Code of Ethics and the Behavioral Standards document;

2. Adopt the resolution revising and renaming Standard Operating Procedure No. 16-1 (formerly known as the Code of Ethics);
3. Review and approve all implementation measures (1 – 14 above) recommended in the Implementation Plan for the City of Milpitas Code of Ethics;
4. Set the date of July 20, 2004 at 6:30 p.m. as a City Council special meeting for Ethics Code training; and
5. Set the date of August 19, 2004 at 7:00 p.m. as a campaign candidates training workshop

6. CONSIDERATION OF PROPOSED STANDARD OPERATING PROCEDURE/ PROTOCOL SETTING FORTH PROCEDURES AND POLICIES FOR MAKING CITY RECORDS AVAILABLE TO THE PUBLIC AND PROVIDING NOTICE AND ACCESS TO PUBLIC MEETINGS (STAFF CONTACT: STEVE MATTAS, 586-3040)

BACKGROUND: At the City Council meeting on March 16, 2004, Councilmember Gomez asked the City Council to consider adopting a Statement of Policy and General Rules to guide the City Attorney in the development of a protocol for public access to meetings and for the disclosure of public records. During the meeting, the City Council discussed the issue and provided the City Attorney with direction to 1) collect and assemble comparative data on other Bay Area jurisdictions that have adopted similar policies or ordinances; 2) to come up with some hypothetical situations to illustrate what impacts the policy might have on the City and the Council's deliberative process; and 3) to draft a model policy based on Councilmember's Gomez' proposed Statement of Policy and General Rules.

The attached packets contain four documents. The first consists of a brief description of existing state law governing the release of public records and access to meetings of local legislative bodies under the California Public Records Act, the Ralph M. Brown Act, and other relevant state and federal laws, including an analysis of points where the proposed policy would provide greater access to meetings and records than is provided for under existing law. The second document is a brief memorandum presenting hypothetical situations to illustrate how the proposed policy might impact the City and deliberative processes of the Council. The third is a matrix presenting comparative data on Bay Area jurisdictions. The fourth is a model policy based on Councilmember Gomez' proposed Statement of Policy and General Rules.

RECOMMENDATION: Consider the information provided and then provide direction to staff as to how the Council desires to proceed.

7. CONSIDERATION OF DEVELOPMENT OF A CITY COUNCIL HANDBOOK INCLUDING THE TOPICS THAT THE CITY COUNCIL MAY DESIRE TO INCLUDE IN THE HANDBOOK (STAFF CONTACT: STEVE MATTAS, 586-3040)

BACKGROUND: At the March 16, 2004, City Council meeting, the City Council requested that staff provide the City Council with examples of City Council Handbooks used in other communities. Although each handbook differs in some respects, a City Council Handbook or Guide generally contains information that councilmembers, especially new councilmembers and the public, find helpful in understanding various issues associated with the role of a city councilmember. To date, my staff has located examples from some other cities including San Leandro, South San Francisco, Petaluma and Fresno and we are surveying other cities in Santa Clara County to determine whether they have created similar documents. As these documents tend to be lengthy, we will under separate cover provide copies for the City Council to review and will also provide a public review binder which will be available through the City Clerk's office.

In general, these types of documents cover topics such as: (1) the role of the Mayor and City Council, (2) the form of government (i.e., Council/Manager) under which the City operates, (3) terms of office, (4) the role of City Councilmember serving as the City's representative in other government agencies, (5) a general description of the various boards on which a councilmember may sit, (6) a general description of the duties of the boards and commissions of the City and the

selection procedures for those commissioners, (7) guidelines related to public participation in City Council meetings, (8) a general description of the process for conducting City Council meetings including rules of order and issues related to maintaining a quorum, (9) a general description of the forms of motions that may be made by a councilmember during a meeting, (10) a general description or incorporation of city council adopted policies that apply to councilmembers, (11) a general description of Brown Act and Political Reform Act requirement, (12) a general description of the primary documents involved in the governments of the City including documents such as the General Plan and Municipal Code. As is evident from a review of the sample documents, the items included in a City Council Handbook and the format thereof varies greatly and is guided by the direction of the City Council in each community.

RECOMMENDATION: Consider the sample documents provided and if desired by the City Council, provide direction to develop a City Council handbook for use in Milpitas.

* **8. DENY FEE WAIVER REQUEST FOR THE PUNJABI SAHIT SABHA LITERARY FUNCTION ON AUGUST 8, 2004, IN THE AMOUNT OF \$494 (STAFF CONTACT: KATHLEEN YURCHAK, 586-3209)**

BACKGROUND: Staff has received a request from Amarjit Dardi, General Secretary of Punjabi Sahit Sabha, a non-profit group, requesting a fee waiver for their August 8, 2004, rental of the Milpitas Community Center Auditorium in the amount of \$494.00. Punjabi Sahit Sabha is offering a Literary Function beginning at 8:00am to 9:00pm (13 hours). The per hour rental fee for a resident, non-profit group is \$38.00, totaling \$494. The \$15 application fee and \$150 deposit has been paid. Included in the Council's packet are copies of Mr. Dardi's fee waiver request, a copy of his Non-profit Indoor Facility Use Application and Facility Permit.

As of May 2003, Punjabi Sahit Sabha has rented either the Community Center's Room 7/8 or Auditorium 12 times and has only paid the application fees, totaling \$90. To date, rental fees have not been applied to the past 12 rentals, per the City's Facility Use Rules and Regulations, which allows "free" rentals for non-profit organizations, who meet the City's guidelines. In an effort to be fiscally responsible and to follow the established City's Facility Use Rules and Regulations, it is recommended that Mr. Dardi's request be denied.

RECOMMENDATION: Deny fee waiver request for the Punjabi Sahit Sabha Literary Function on August 8, 2004, in the amount of \$494.

* **9. REQUEST AUTHORIZATION TO FLY TREE CITY USA FLAG AT THE PUBLIC WORKS BUILDING (STAFF CONTACT: CAROL RANDISI, 586-2601)**

BACKGROUND: Milpitas has been awarded the designation of "Tree City USA" by the National Arbor Day Foundation for its commitment to establishing and maintaining an urban "community forest." This is the second year Milpitas has received this national recognition. According to John Rosenow, president of the National Arbor Day Foundation, "It shows the people of Milpitas value trees for the beauty, grace, comfort, and practical blessings they bring."

When a community is designated as a Tree City USA, the National Arbor Day Foundation allows that community to display this title in a number of ways including posting signs at its city limits and flying a Tree City USA flag. This physical manifestation of the designation as a Tree City USA is typically viewed positively by the public.

Staff is requesting authorization to fly the Tree City USA flag at the Public Works building. The flag would be flown according to proper protocol under the City flag. The flag has a white field with a green tree and lettering. A Tree City USA flag is visible along Route 101 in front of the City of Mountain View's maintenance facility.

RECOMMENDATION: Authorize staff to fly the Tree City USA flag at the Public Works building.

XVII. ORDINANCES (NONE)

XVIII. RESOLUTIONS

- * 10. ADOPT A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM FOR MAIN SEWAGE PUMP STATION SITE IMPROVEMENTS, PROJECT NO. 6079, (STAFF CONTACT: MARK ROGGE, 586-3403)**

BACKGROUND: An Initial Study and Mitigated Negative Declaration (IS/MND) were prepared for the Main Sewage Pump Station Site Improvements, Project 6079 in accordance with the California Environmental Quality Act. The project includes demolition of abandoned sewage treatment facilities, site cleanup, replacement of the operations building, drainage improvements, paving and related site improvements to be constructed in two phases. The IS/MND was circulated for public review from March 26, 2004 to April 25, 2004. Copies were delivered to the State Clearinghouse of the Governor's Office of Planning and Research for review by state agencies. The public review process was advertised and the project site was posted. Upon close of the review period, one letter was received from the Santa Clara Valley Water District. The letter contained minor comments that have been addressed in the IS/MND. The Initial Study/Mitigated Negative Declaration has been finalized and is suitable for adoption.

RECOMMENDATION: Adopt a resolution adopting a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Main Sewage Pump Station Site Improvements, Project No. 6079.

- * 11. ADOPT RESOLUTION RELATING TO STATEMENTS OF QUALIFICATIONS OF CANDIDATES IN MUNICIPAL ELECTIONS (STAFF CONTACT: GAIL BLALOCK, 586-3001)**

BACKGROUND: In June 1998, the City Council adopted Resolution No. 6778 relating to Candidates Statements of Qualifications printed in the sample ballot for Municipal Elections. This resolution sets forth the number of words allowed in a Candidate's Statement and that the candidate is responsible for the cost of printing and mailing the statement and translating the statement into Spanish. Since the City's last municipal election in November 2002, the Federal Voting Rights Act has mandated that Santa Clara County make election materials available in Chinese, Tagalog, and Vietnamese in addition to Spanish. A resolution replacing Resolution No. 6778 has been prepared incorporating this change, and a copy is included in the Council's agenda packets.

RECOMMENDATION: Adopt resolution relating to statements of qualifications of candidates in municipal elections.

- * 12. ADOPT A RESOLUTION TO RELEASE UNCLAIMED CHECKS IN ACCORDANCE WITH SOP NO. 26-1 (STAFF CONTACT: DANTE D. ONG, 586-3132)**

BACKGROUND: According to City of Milpitas' Standard Operating Procedures 26-1 which conforms with California Government Code Section No. 50055, unclaimed checks of less than \$15, or any amount if the depositor's name is unknown, which remain unclaimed for more than one year may be transferred to the General Fund by the City Council. Attached is a list of unclaimed checks of less than \$15, which remain unclaimed for more than one year.

RECOMMENDATION: Staff recommends that the Council adopt a resolution to transfer a total of \$80.06 unclaimed checks per the attached list to the General Fund in accordance with Standard Operating Procedures 26-1.

- * 13. **ADOPT RESOLUTION OF INTENTION TO LEVY ASSESSMENTS FOR FISCAL YEAR 2004-2005, PRELIMINARILY APPROVING THE ANNUAL ENGINEER'S REPORT AND PROVIDING FOR NOTICE OF PUBLIC HEARING: LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 95-1, MCCARTHY RANCH, PROGRAM NO. 9474, (STAFF CONTACT: MEHDI KHAILA, 586-3328)**

BACKGROUND: Landscaping and Lighting Maintenance Assessment District (LMD) No. 95-1, provides for servicing and maintaining the public landscaping and additional lighting along North McCarthy Boulevard and Ranch Drive Gateway Improvements. On May 18, 2004, the City Council directed the City Engineer to prepare an annual engineer's report for LMD 95-1. It is now necessary for the Council to preliminarily approve the Annual Report and set the date of June 15, 2004 for a public hearing. Upon conclusion of the public hearing on June 15, 2004, and subsequent City Council approval of the Annual Engineer's Report, the assessment for the work will be added to the tax bills for those property owners included within the boundaries of the District.

RECOMMENDATION: Adopt Resolution preliminarily approving the Annual Engineer's Report and providing for the notice of public hearing.

- * 14. **ADOPT RESOLUTION OF INTENTION TO LEVY ASSESSMENTS FOR FISCAL YEAR 2004-2005, PRELIMINARILY APPROVING THE ANNUAL ENGINEER'S REPORT AND PROVIDING FOR NOTICE OF PUBLIC HEARING: LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 98-1, SINCLAIR HORIZON, PROGRAM NO. 9489, (STAFF CONTACT: MEHDI KHAILA, 586-3328).**

BACKGROUND: Landscaping and Lighting Maintenance Assessment District (LMD) No. 98-1, provides for servicing and maintaining the public landscaping along Sinclair Frontage Road, Los Coches and Berryessa Creeks abutting the Sinclair Horizon residential subdivision. On May 18, 2004, the City Council directed the City Engineer to prepare an annual engineer's report for LMD 98-1. It is now necessary for the Council to preliminarily approve the Annual Report and set the date of June 15, 2004, for a public hearing. Upon conclusion of the public hearing on June 15, 2004, and subsequent City Council approval of the Annual Report, the assessment for the work will be added to the tax bills for those property owners included within the boundaries of the District.

RECOMMENDATION: Adopt Resolution preliminarily approving the Annual Engineer's Report and providing for the notice of public hearing.

XIX. BIDS AND CONTRACTS

- * 15. **APPROVE AND AUTHORIZE RECREATION SERVICES TO ENTER INTO A CONTRACT WITH THE MILPITAS UNIFIED SCHOOL DISTRICT FOR TRANSPORTATION SERVICES FOR SUMMER 2004 (STAFF CONTACT: DALE FLUNOY, 586-3228)**

BACKGROUND: Recreation Services has contracted with the Milpitas Unified School District for transportation services for the City's Camp Stay & Play Program over the past six years. The Milpitas Unified School District provides the most economic transportation services within the surrounding area. The Milpitas Unified School District has agreed to provide transportation for the City of Milpitas at a rate of \$40.00 per hour per bus with no additional cost for mileage.

The School District will provide transportation for a total of ten (10) off-site trips to accommodate a total of 110 campers and 10 Recreation staff during Summer 2004. The field trip locations include: The Tech Museum, Bonfante Gardens, Monterey Bay Aquarium, Santa Cruz Beach Boardwalk, San Francisco Zoo, Manteca Waterslides, Marine World, Raging Waters, and

Great America. This agreement has been approved to form by the City Attorney and would be valid from June 21, 2004, through August 13, 2004.

This contract would not exceed \$15,000.00. Funds have been approved in the 04-05 Recreation Services operating budget.

RECOMMENDATION: Approve agreement between the City of Milpitas Recreation Services and the Milpitas Unified School District for transportation services for Camp Stay & Play Summer 2004, in the amount not to exceed \$15,000, subject to approval as to form by the City Attorney.

*** 16. APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE THE ADVERTISEMENT FOR BID PROPOSALS: 2004 STREET RESURFACING, PROJECT NO. 4182 (STAFF CONTACT: STEVE ERICKSON, 586-3414)**

BACKGROUND: Plans and specifications for the subject project have been completed in accordance with the approved five-year Capital Improvement Program (CIP). The project provides roadway reconstruction for Yosemite Drive from Sequoia to Temple and Falcato Drive from Temple to Edsel; asphalt concrete overlay for Jacklin Road from Park Victoria to I-680 Ramp East, Park Victoria Drive from Big Basin Way to Landess Avenue and Calaveras Blvd. to Canton Drive, Landess Avenue westbound lanes from Park Victoria to Dempsey, McCarthy Blvd. from Murphy Ranch to Bellew, Bellew Drive from McCarthy to Barber and Barber Lane from Bellew to Alder; slurry seal of Jacklin Road from Milpitas to I-680 Ramp West, Petersburg Drive, Bliss Avenue, Mesa Verde Drive, Shiloh Avenue, Seaclyff Drive, and Barber Court; and base repair for Yosemite Drive from Temple to Hillview. The Engineer's estimated construction cost for the work is approximately \$1,800,000. A copy of the project plan title sheet is included in the Council's agenda packets. Complete plans and specifications are available for review in the office of the City Engineer.

RECOMMENDATION:

1. Approve plans and specifications.
2. Authorize advertising for bid proposals.

*** 17. REQUEST COUNCIL AUTHORIZATION: RENEWAL OF URBAN SEARCH AND RESCUE (USAR) PROGRAM PARTICIPATION AGENCY AGREEMENT (STAFF CONTACT: BILL WEISGERBER, 586-2811)**

BACKGROUND: Since January 14, 1999, the Milpitas Fire Department has been accepted as a Participating Agency in the Federal Emergency Management Agency (FEMA) Urban Search and Rescue (USAR) Program. The sponsoring agency for this team, known as: California Task Force-3 (CA-TF3); is The Menlo Park Fire Protection District.

As a sponsoring agency, The Menlo Park Fire Protection District solicited regional participants for their FEMA Urban Search and Rescue (USAR) team. The Milpitas Fire Department's compliment of equipment and trained personnel allowed us to take advantage of this opportunity--adding value to our preparation for local disasters, terrorist attacks, or providing assistance to neighboring communities with similar needs. By including our resources as an integral component of a larger USAR response operation, the Milpitas Fire Department personnel are afforded unsurpassed USAR experience and support-- otherwise not realized through normal requests for mutual-aid response.

The Milpitas Fire Department is accepted into the program for one Rescue Group position (requiring three personnel to provide coverage, on three shifts); and one single resource Planning Section Deputy (requiring one person). The department's obligation during any activation request, for State or Federal deployment is reimbursable through FEMA and is similar to that of the State OES Mutual Fire Aid system, essentially as follows:

- Response to rendezvous point in Menlo Park within 3 hours;
- Fire Chief's discretion in determining whether to fill or decline request—based on local circumstances;
- Back-fill of personnel incumbent upon participating agency;
- Reimbursement to agency for personnel costs through FEMA—post-incident

Participation in this program holds a requirement for 26 hours of external training per year, per team member. The estimated maximum personnel cost for training hours is \$5,000 per year, which has been included in the department budget. Additionally, there is a program requirement for a 22-hour compliment of in-service training, which is currently incorporated into the Milpitas Fire Department annual training calendar.

Included in the Council's packet is a copy of the Memorandum of Agreement renewal, as a FEMA Participating Agency, with the Menlo Park Fire Protection District.

RECOMMENDATION: Authorize City Manager to execute a renewal contract with the Menlo Park Fire Protection District, as a Participating Agency in the FEMA California Task Force-3, Urban Search and Rescue Program, subject to approval as to form by the City Attorney.

*** 18. APPROVE CONTRACT WITH MARY KROST & ASSOCIATES TO PROVIDE SAFETY TRAINING FOR CITY EMPLOYEES (STAFF CONTACT: CHERIE ROSENQUIST, 586-3082)**

BACKGROUND: The purpose of safety training is to prevent and/or reduce worker injuries. Training can also reduce worker's compensation costs while increasing Citywide efficiency and productivity and will provide a safer workplace environment for our employees.

Krost & Associates has extensive experience and expertise in reducing workplace injury through customized safety training with an emphasis on body mechanics.

The training will be provided to more than 80 employees over six seminars including customized video demonstrations. The program also includes follow-up reviews. The total cost of the training services is \$18,279.00. Funding is included in the fiscal year 03/04 budget.

RECOMMENDATION: Authorize the City Manager to execute an agreement to provide safety training with Mary Krost & Associates in an amount not to exceed \$18,279.00, subject to approval as to form by the City Attorney.

*** 19. APPROVE SENIOR NUTRITION AMENDED CONTRACT WITH COUNTY OF SANTA CLARA (SOCIAL SERVICES) (STAFF CONTACT: KATHLEEN YURCHAK, 586-3209)**

BACKGROUND: The City of Milpitas has contracted with the County of Santa Clara in implementing the Senior Nutrition Program since March 1978. The Program serves seniors, sixty years and older, 249 days per year, an average of 68 meals per day, for a total of 17,025 meals per year. Enclosed in the Council's agenda packet is a copy of the Amended Contract between the County of Santa Clara (Social Services) and the City of Milpitas. Amended items include, Article 1, Section B, Term of Contract, which has been revised to reflect FY 2004/05 terms, extending contract one year to commence on July 1, 2004 and expire on June 30, 2005, unless terminated earlier or otherwise amended; and Article 1 Section C, Maximum Financial Obligation, which has been revised to reflect FY 04/05 terms. The total budget for the FY 2004/05 Nutrition Program, shared by the City of Milpitas and Santa Clara County, is \$103,698. As outlined in the County's contract, the City's contribution to the program is 50% of the budget or \$51,849, which is included in Recreation Services' operating budget.

RECOMMENDATION: Approve the amended contract with County of Santa Clara (Social Services) for July 1, 2004, through June 30, 2005. The total amount of this contract is \$103,698, with the City and County each responsible for one half of the amount or \$51,849, not to exceed

\$3.55 per meal. Sufficient funds have been approved in the FY 2004/05 budget and contract is subject to approval as to form by the City Attorney.

*** 20. AUTHORIZE CITY MANAGER TO EXECUTE CONTRACT: WILDLIFE CENTER OF SILICON VALLEY ANIMAL CONTROL SERVICES FOR THE CITY OF MILPITAS, (STAFF CONTACT: FELIX RELIFORD, 586-3071)**

BACKGROUND: Since the establishment of the previous cost sharing agreement in October 1993, the cities within Santa Clara County have received animal wildlife services free of charge from the Wildlife Center of Silicon Valley (WCSV). Wildlife animals were dropped off at the Humane Society and held until the Wildlife Center staff transported them to their center for care and treatment. The animals are then released back into the wild.

Because of the lack of funding, Wildlife Center of Silicon Valley, Board of Directors decided several years ago (effective September 1, 1999), to eliminate free services to those cities that have chosen not to pay for them. In the past, WCSV requested that cities pay 60% of their total projected budget of \$310,591. This year the percentage of funding request from cities has decreased to 40% with WCSV bearing the majority (60%) of the cost. Based on the 199 wild animals the Wildlife Center has received from Milpitas residents in the past year, Milpitas cost in the coming year would be 2% of \$310,591 or \$6,336. There is no increase in the WCSV fees from last year and the City's total fees have decreased from 2.4% to 2% of WCSV's total costs.

Included in the Council's agenda packet are the contract agreement and letters from the Wildlife Center of Silicon Valley.

RECOMMENDATION: Authorize the City Manager to execute a contract agreement with the Wildlife Center of Silicon Valley to provide wildlife services in the amount not to exceed \$6,336, subject to approval as to form by the City Attorney.

*** 21. AUTHORIZE THE CITY ENGINEER TO EXECUTE A CONTRACT CHANGE ORDER: PIEDMONT ROAD BIKE LANE AND SIDEWALK IMPROVEMENTS AT ST. JOHN'S CEMETERY (PROJECT NO. 4214) (STAFF CONTACT: STEVE ERICKSON, 586-3414)**

BACKGROUND: The City Council awarded this project to Grade Tech, Inc. on February 17, 2004, and construction is underway. The completed project will provide new curb, gutter, sidewalk and bike lane along the west side of Piedmont Road in front of St. John's Cemetery. This project will also provide new pavement on Piedmont Road between Yosemite Drive and Aguilar Court and the anticipated completion date is August 30, 2004.

Staff has reviewed the roadway pavement condition and recommends that this section of Piedmont Road be resurfaced with a thin layer of asphalt concrete. Staff has negotiated a fee not to exceed \$56,435 with the Contractor for this additional work, and the approval of a contract change order is requested. Sufficient funds are available in the project budget for this change order.

RECOMMENDATION: Authorize the City Engineer to execute the Contract Change Order for Grade Tech, Inc. in the amount not to exceed \$56,435, subject to approval as to form by the City Attorney.

*** 22. APPROVE AGREEMENT AMENDMENT: 4 LEAF INC., SILICON VALLEY INTELLIGENT TRANSPORTATION SYSTEM (ITS) PROJECT NO. 4219 (STAFF CONTACT MIKE MCNEELY, 586-3301)**

BACKGROUND: 4 LEAF Inc. is currently providing Construction Management and Inspection of the Silicon Valley Intelligent Transportation System (ITS) project. This multi-jurisdictional project will extend fiber optic communication lines between Traffic Management Centers in

Fremont, Milpitas and Caltrans District Office in Oakland. Closed Circuit Television cameras are also being installed along the North – South corridors between Milpitas and Fremont to monitor traffic congestion. All costs for this project are reimbursed by a State and Federal grant fund.

Additional services are needed because of delays in completing the construction contract due to factors discussed in the memo included in the Council's agenda packet. It is expected that the additional costs incurred by the City to manage and inspect the project will be collected from the contractor in the form of liquidated damages. An agreement amendment with 4 LEAF Inc. is proposed for these additional services with a not to exceed amount of \$17,500, which is considered reasonable for the scope of work. There are sufficient funds in the project budget to cover this additional expense.

RECOMMENDATION: Authorize the City Manager to execute the agreement amendment with 4 LEAF Inc., in the amount of \$17,500, subject to approval as to form by the City Attorney.

*** 23. AUTHORIZE CITY MANAGER TO EXECUTE AGREEMENT AMENDMENT:
OVERLAND PACIFIC & CUTLER, MAIN SEWAGE PUMP STATION
IMPROVEMENTS, PROJECT NO. 6079 (STAFF CONTACT GREG ARMENDARIZ,
586-3401)**

BACKGROUND: On April 6, 2004, the City Council awarded a consultant contract to Overland, Pacific & Cutler, Inc. for services relating to property acquisitions and tenant relocations for the Midtown Parking Structure and the Abel Street Right Turn Lane projects.

Staff recommends that Overland, Pacific & Cutler perform additional services relating to a land transaction under consideration in the vicinity of the main sewage pump station. The pump station site is proposed as a location for Public Works maintenance activities that will be displaced by construction of the new library and midtown parking structure. A land transaction is being considered to provide improved vehicular access to the pump station site. An agreement amendment is proposed for additional real estate services by Overland, Pacific & Cutler relating to this transaction. Staff has negotiated a scope and fee for these services not to exceed \$30,000.00, which is considered reasonable for the work. There are sufficient funds in the project budget to cover this additional expense.

RECOMMENDATION: Authorize the City Manager to execute the agreement amendment with Overland, Pacific & Cutler, Inc. in an amount not to exceed \$30,000.00, subject to approval as to form by the City Attorney

- * 24. **APPROVE BUDGET APPROPRIATION AND AUTHORIZE THE CITY MANAGER TO EXECUTE AMENDMENT TO AGREEMENT: HILTON FARNKOPF & HOBSON LLC SOLID WASTE CONTRACT EXTENSION AND RATE NEGOTIATIONS (STAFF CONTACT: DARRYL WONG, 586-3345)**

BACKGROUND: As directed by Council at the April 20 and May 18, 2004 meetings, staff is pursuing a ten-year extension to the existing solid waste contract with Browning Ferris Industries (BFI). In addition, the biennial rate negotiations will be starting shortly and more efficient styles of service will be considered. Hilton Farnkopf & Hobson LLC (HFH) successfully assisted the City with prior audit and rate negotiations with a savings to the City over \$375,000. Due to the potential complexity of the contract extension and changes in service style, staff proposes an amendment to the HFH agreement for assistance in these reviews in the amount of \$83,645. Staff has reviewed the scope of work and believes it to be reasonable. Savings in existing Solid Waste accounts of approximately \$39,000 are available and a budget appropriation of \$44,000 is requested for the remaining needed funds

RECOMMENDATION:

1. Authorize the City Manager to execute the agreement amendment with HFH, subject to approval as for by the City Attorney.
2. Approve the budget appropriation of \$44,000.

XX. CLAIMS AND DEMANDS

- * 25. **APPROVE PAYMENT REQUESTS: MISCELLANEOUS VENDORS / CONTRACTORS (STAFF CONTACT: LOU ZENZEN, 586-3161)**

BACKGROUND: In accordance with direction given by City Council at its August 15, 1995, meeting, Purchasing has prepared the following purchasing request over \$5,000.00 for approval:

\$25,147.43 to US Metering & Technology for the purchase of 75 water meters from ¾" to 2" in size to replenish inventory stock for the Utility Maintenance Function. This vendor is the sole distributor of Badger water meters on the west coast. (Funds are available from the Public Works Department operating budget for this purchase.)

RECOMMENDATION: Approve the purchase request.

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JUNE 15, AT 7:00 P.M.**